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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/266,155	03/10/1999	BURTON J. PRICE	MRA-PT001	5381

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VOLPE AND KOENIG, P.C.  
SUITE 400, ONE PENN CENTER  
1617 JOHN F. KENNEDY BOULEVARD  
PHILADELPHIA, PA 19103

EXAMINER

JUSKA, CHERYL ANN

ART UNIT	PAPER NUMBER
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1771

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DATE MAILED: 12/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/266,155

Applicant(s) **PF**

PRICE ET AL.

Examiner

Cheryl Juska

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 7-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102 and 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 9, 13, and 14 stand rejected under 35 U.S.C. 102(b) as being anticipated by US 4,112,161 issued to Sorrells, for the reasons of record.
3. Claims 7, 8, 10-12, and 15 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the cited Sorrells patent for the reasons of record.

### ***Response to Arguments***

4. Applicant's arguments filed on May 5, 2002, in the Request for Reconsideration have been fully considered but they are not persuasive.
5. Specifically, Applicant traverses the above Sorrells rejections by asserting that Sorrells the Examiner's assertion that the polymeric adhesive of Sorrells is inherently "disposed in," at least partially, the plurality of textile tufts is insufficient to establish inherency (Request, page 2, 1<sup>st</sup> paragraph). Applicant disagrees that the application of pressure applied during lamination by Sorrells will not necessarily result in penetration of said adhesive (Request, page 2, 2<sup>nd</sup> paragraph). Applicant requests the Examiner cite a reference or other extrinsic evidence in support of the inherency assertion.

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6. In response, Applicant is directed to Sorrells multiple teachings that hot melt adhesives are employed in the carpet art to adhere a primary backing to a secondary backing, as well as to lock the pile tufts in place, thereby preventing removal of said tufts by pulling or snagging (col. 1, lines 43-53, col. 2, lines 60-63, col. 3, lines 20-23, col. 4, lines 47-53, col. 5, lines 12-23, and col. 6, lines 12-33). Additionally, Sorrells teaches that the hot melt adhesive is heated to a liquid state, applied to the primary backing by a doctor blade (col. 6, lines 27-30). A secondary backing is then pressed against the coated primary backing until said hot melt adhesive has set (col. 6, lines 31-33).

7. The Examiner reasserts that based upon Sorrells teachings, said adhesive is at least partially “disposed in” or penetrated into the primary backing and the tufted yarns. Support for said assertion is (a) the use of a liquid adhesive which is capable of flowing into the primary backing and tufts, (b) the application of said liquid adhesive by a doctor blade, which spreads said adhesive across and into said backing and tufts, and (c) the application of pressure during lamination of the primary and secondary backings, which enhances the penetration of said liquid adhesive. Thus, without a teaching to the contrary, one *must* conclude that the hot melt adhesive *at least partially* penetrates into the yarn tufts by nature of the application process alone.

8. However, further support for the Examiner’s inherency position is found in Sorrells repeated teaching that the hot melt adhesive locks the tufts in place. Note *The Complete Carpet Manual*, J. Levinstein, definition for “latex penetration,” at page 353. Levinstein teaches latex penetration is measured by removing a yarn tuft from a carpet and visually determining the amount of penetration into said yarn tuft of said latex. An acceptable level of latex penetration is above 85%. Levinstein also states that the amount of latex penetration determines the tuft bind

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strength of a carpet. It is well known in the carpet art that hot melt adhesives are an alternative to latex adhesives. Despite the fact that penetration of a latex adhesive and penetration of a hot melt adhesive are not necessarily equivalent, one cannot deny that a hot melt adhesive must also penetrate the tuft yarns in order to produce a satisfactory tuft bind strength. Hence, with Sorrells reiteration of the hot melt adhesive locking the tufts in place, one *must* presume that said adhesive *at least partially* penetrates said tuft yarns in order to produce the tuft lock.

9. Therefore, Applicant's arguments are found unpersuasive and the above prior art rejections based upon Sorrells are maintained.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


11. Any inquiry concerning this communication or earlier communications from the

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Examiner should be directed to Cheryl Juska whose telephone number is 703-305-4472. The Examiner can normally be reached on Monday-Friday 10am-6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CHERYL A. JUSKA  
PRIMARY EXAMINER